

IRVIN WALL

IBLA 82-1059

Decided December 14, 1982

Appeal from the decision of the Oregon State Office, Bureau of Land Management, rejecting oil and gas lease offer OR 34217.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First-Qualified Applicant

Because a noncompetitive oil and gas lease may only be issued to the first qualified applicant, a junior offer is properly rejected to the extent that it includes land described in a senior offer and the junior offeror fails to provide valid reasons why the senior offer should be considered defective.

APPEARANCES: Irvin Wall, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Irvin Wall has appealed from the July 2, 1982, decision of the Oregon State Office, Bureau of Land Management (BLM), rejecting his noncompetitive over-the-counter oil and gas lease offer OR 34217 in part because the land he applied for was included in an oil and gas lease OR 25871 issued pursuant to the prior offer of Kurt A. Humphrey. Humphrey's offer was filed on February 2, 1981. Wall's offer was filed on February 18, 1982. The lease was issued to Humphrey on June 18, 1982, effective July 1, 1982.

Wall gives three reasons why Humphrey's offer should have been disallowed. First, Wall alleges that Humphrey did not file a statement of qualification or make reference to one in his application. Second, Wall alleges that Humphrey indicated that he was not the sole party in interest but failed to indicate other parties. These allegations are simply incorrect; the necessary statements were separately attached to Humphrey's offer. The third reason Wall gives for disallowing Humphrey's lease is that Humphrey had applied for only 239.74 acres when other adjacent tracts were available for lease, thereby failing to comply with 43 CFR 3110.1-3(a), which provides, inter alia, that no offer may be made for less than 640 acres, except for when the land is surrounded by land not available for leasing. Wall's third assertion is also incorrect. None of the land adjacent to the land leased to

Humphrey is available for leasing. An oil and gas lease offer properly may describe less than 640 acres where the land is surrounded by land not available for leasing.

[1] Because a noncompetitive oil and gas lease may be issued only to the first-qualified applicant, 43 U.S.C. § 226(c) (1976), a junior offer is properly rejected to the extent that it includes land designated in a senior offer and the junior offeror fails to provide valid reasons why the senior offer should be considered defective. Irvin Wall, 68 IBLA 243 (1982).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

James L. Burski
Administrative Judge